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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington D.C 20554

FCC MAIL ROOM

In the Matter of )

Amendment of Part 90 of the )  
Commission's Rules to Facilitate )  
Future Development of SMR Systems )  
in the 800 MHz Frequency Band )

PR Docket No. 93-144

Implementation of Sections 3(n) and 322 )  
of the Communications Act - )  
Regulatory Treatment of Mobile Services )

GN Docket No. 93-252

Implementation of Section 309(j) )  
of the Communications Act - )  
Competitive Bidding )

PP Docket No. 93-252

PETITION FOR RECONSIDERATION

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In accordance with Section 1.429 of the Federal Communications Commission's Rules and Regulations, the Warner Communications Co., Inc. hereby files this Petition for Reconsideration of the First Report and Order, Eighth Report and Order and Second Further Notice of Proposed Rule Making in the above-referenced proceedings. This decision was published in the Federal Register on February 16, 1996.

Specifically, we ask the FCC to reconsider its decision to reallocate the 800 MHz General Category channels exclusively for SMR use.

The reallocation and auction of General Category channels will cause irreparable damage to the internal communications systems of the nation's critical industries. The economic infrastructure will not be the only communications networks affected - the public safety sector will also be harmed.

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My company was established here in New Jersey in 1935. We now employ about 40 people and we service hundreds of small businesses as well as many municipal entities. Forty-five years ago the FCC represented small companies such as ours on an equal basis with large corporations. This has changed drastically. With the disgraceful advent of "auctioning" and by constantly changing the FCC rules, small business is being smothered. The playing field is no longer level. During the past 50 years we in America have seen the neighborhood delicatessen, milkman, hardware store, gasoline station virtually disappear by large conglomerates smothering them, mostly caused by modifications of federal laws.

We believe the FCC has gone beyond its statutory authority to conduct spectrum auctions. The Communications Act does not allow the FCC to auction spectrum that is used for internal industrial, public safety and business communications systems. And more than 3,400 private wireless users rely on more than 10,000 systems for critical internal communications in the 800 MHz General Category Pool.

Auctioning the General Category channels is simply bad public policy. With nearly 15,000 public safety and industrial licenses issued on General Category channels nationwide, millions of dollars in embedded internal telecommunications equipment will be jeopardized by this FCC initiative.

In a recent letter to FCC Chairman Hundt, Senators Larry Pressler and Thomas Daschle stated that auctions are only to be used in cases of mutually exclusive license applications. The

letter went on to say that the "opportunity to generate revenues was not to be used as justification for ignoring this direction."

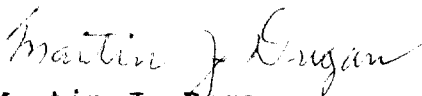
Other congressional representatives have spoken out on this issue. The Bureau of National Affairs, Inc., recently quoted Representative Mike Oxley (R-Ohio) as saying that spectrum auctions "cannot be budget-driven (they have) to be policy-driven." Senate Majority Whip Trent Lott (R-Mississippi) added that dealing with spectrum "as a budget number is a mistake."

The reallocation and proposed auction of the General Category Pool channels is not being driven by sound public policy. Instead, raising revenue seems most definitely to be the motivation behind the FCC's action in this proceeding. This is contrary to the congressional intent.

In conclusion, we strongly urge the FCC to act favorably upon this Petition for Reconsideration and preserve private wireless access to General Category frequencies at 800 MHz. We are not asking the FCC to preclude use of these frequencies by SMR systems. Rather, we simply request the Commission to preserve the ability of industrial, public safety and business eligibles to apply for and use 800 MHz General Category channels.

Respectfully submitted,

WARNER COMMUNICATIONS CO., INC.

  
Martin J. Dugan,  
President

March 15, 1996  
FCC.800